

## **HOW TO DRAFT A COMPLAINT IN FEDERAL COURT**

All suits in federal court must begin with the filing of a complaint. Although you may file a complaint without the assistance of an attorney, you should draft your complaint so that it conforms generally to the accepted practice.

The basic guide for drafting a complaint in federal court is the Federal Rules of Civil Procedure, especially Rule 8, which sets forth the essential elements of a complaint.

In general, your complaint should have the following elements: a statement of your location; a statement of the defendant's identity and location; and a statement invoking federal jurisdiction, that is, why you are suing in federal court. You should try to list the specific statutes under which you are claiming jurisdiction, such as: federal question, 28 U.S.C. § 1331 or diversity of citizenship, 28 U.S.C. § 1332. Actions for violations of civil rights would be pursuant to 42 U.S.C. § 1983. After your statement of federal jurisdiction you should set forth, clearly and concisely the facts of your claim. Names, dates and events should be described accurately and briefly. Lastly, you should make your claim for relief which may include money damages, injunctive relief or both. You should then sign your complaint and give your address and telephone number.

The charge for filing a complaint is \$120.00 and service of the summons and complaint upon the defendant may require the payment of fees to a process server. If you cannot afford these fees you should apply for pauper status by completing a separate in forma pauperis(IFP) affidavit which is available in the Clerk's Office. If the judge allows you to proceed as a pauper, you do not have to prepay the filing fees; and, service of the summons and complaint will be made, without charge, by the U.S. Marshal.

A sample complaint form is attached.

UNITED STATES DISTRICT COURT

COMPLAINT INSTRUCTIONS

1. Form of the complaint:

- a. This court will only accept 8 1/2 by 11 papers.
- b. It must be typed or neatly printed in ink and in English.
- c. It must begin with a caption (sample below) giving your name as plaintiff and the names of all defendants. If you do not know the name of one or more of your defendants, you can describe the defendant's position, give the position and "John Doe" or "Jane Doe."
- d. The complaint may only be written on one side of the page.  
Complaints written on both sides of each page will not be accepted.
- e. It must be signed by all plaintiffs at the end.

2. Number of copies you must submit to the Pro Se Clerk's Office:

- a. Original containing plaintiff's original signature in ink.
- b. Two copies for each defendant named in the caption.
- c. Three additional copies if the United States or any United States agency is a defendant.

3. Statements that should be made in the complaint:

- a. The full name and address of each plaintiff.
- b. The full name and address of each defendant.
- c. Why each defendant is being sued.
- d. Why this court has jurisdiction.
- e. Specifically what remedy is sought from each defendant.

SAMPLE CAPTION

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X

"John Doe,"

Plaintiff,

-against-

COMPLAINT

"Ralph Doe,"

Defendant.

-----X

## **JURY I A L**

In some kinds of cases you are entitled to a trial by jury. However, you lose your right to a jury trial if you do not ask for it early enough.

If you want a jury trial, you should write "JURY TRIAL DEMANDED" on your complaint, to the right of the caption. You can also demand a jury trial within 10 days of service of the answer.

If you already lost your right to a jury trial, the judge might let you have a jury trial anyway, if you make a motion for a jury trial, explaining why you did not ask earlier. The judge does not have to grant this motion.

If you have any questions, contact the Pro Se Office, in Brooklyn, at (718) 330-7523 or, in Uniondale, Long Island at (516) 485-7207.

**SAMPLE COMPLAINT**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X

YOUR NAME,

Plaintiff,

-against-

COMPLAINT

PLAINTIFF DEMANDS TRIAL BY JURY

DEFENDANT'S NAME,

Defendant.

-----X

1. At all times hereinafter mentioned, plaintiff was and still is a resident of \_\_\_\_\_

2. Defendant, \_\_\_\_\_, is a corporation incorporated under the laws of \_\_\_\_\_ and  
having a main office at \_\_\_\_\_, and is licensed to do business in \_\_\_\_\_

OR

Defendant, \_\_\_\_\_, is a U.S. Government agency,

OR

Defendant, \_\_\_\_\_, is a resident of \_\_\_\_\_

3. The jurisdiction of this court is invoked pursuant to \_\_\_\_\_ (list statutes).

4. Give a clear and concise statement of fact upon which you are basing your complaint.

5. WHEREFORE, plaintiff demands:

Money damages in the amount of \_\_\_\_\_

Permanent injunction against the defendant from performing certain acts in the future.  
(List the activities you seek to enjoin).

Any further relief which the court may deem appropriate.

SIGN YOUR NAME

ADDRESS

TELEPHONE NUMBER

DATE: \_\_\_\_\_